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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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JAN 24 2000

In the matter of:	)	
	)	
Implementation of the Telecommunications Act of 1996;	)	CC Docket No. 96-115
	)	
Telecommunication Carriers' Use of Customer Proprietary Network Information and Other Customer Information	)	
	)	
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
Provision of Directory Listing Information Under the Communications Act of 1934, As Amended	)	CC Docket No. 99-273
	)	

**REPLY COMMENTS OF SBC COMMUNICATIONS INC.**

SBC Communications Inc., Southwestern Bell Telephone Company, Pacific Bell, Nevada Bell, the Southern New England Telephone Company, and Ameritech Corporation (collectively "SBC") hereby reply to the oppositions of AT&T and INFONXX to SBC's petition for clarification or reconsideration of the Commission's *SLI Order*.<sup>1</sup>

**1. AT&T and INFONXX Misconstrue SBC's Petition.**

In its Petition, SBC argued that, in light of the Commission's conclusion in the *UNE Remand Order* that ILECs need not provide unbundled access to OS/DA services,

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<sup>1</sup> *Implementation of the Telecommunications Act of 1996*, Third Report and Order in CC Docket No. 96-115, Second Order on Reconsideration of the Second Report and Order in CC Docket No. 96-98, and Notice of Proposed Rulemaking in CC Docket No. 99-273, FCC 99-227 (rel. Sept. 9, 1999) ("*SLI Order*"). SBC notes that its petition for reconsideration was not listed in the Commission's public notice, released December 3, 1999, concerning the filing of petitions for reconsideration of the *SLI Order*. Consequently, it

LECs should not be required pursuant to section 251(b)(3) to unbundle all of the facilities used to provide DA services, and, in particular, adjunct features and software.<sup>2</sup> SBC did not suggest that competing carriers should be denied access to the DA information contained in LEC databases in a readily accessible electronic format, including daily updates.

AT&T's and INFONXX's oppositions misconstrue SBC's petition and thus oppose a request SBC did not make. In particular, both AT&T and INFONXX read SBC's petition as requesting that the Commission decline to require LECs to provide competing carriers access to directory assistance database listings.<sup>3</sup> That, however, is not SBC's position. To the contrary, SBC agrees that, pursuant to section 251(b)(3), the Commission may require LECs to provide access to LEC OS/DA listings in electronic format (including daily updates) to the extent necessary to enable competing carriers to provide customers with DA listings, without dialing delays.

However, SBC does not agree that, pursuant to section 251(b)(3), the Commission can or should require all LECs to provide competing carriers unbundled access to all of the facilities (including ancillary services and software) used to provide DA services. As SBC pointed out in its petition, unbundling is the exclusive province of section 251(c)(3),

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appears that AT&T's and INFONXX's oppositions are premature. Nevertheless, out of an abundance of caution, SBC replies to those oppositions here.

<sup>2</sup> SBC notes that, in its petition, it argued that the Commission should not require LECs to provide competing carriers access to their DA databases pursuant to section 251(b)(3) if it found that access to such databases was not required under section 251(c)(3). After SBC filed its petition for reconsideration, the Commission released the *UNE Remand Order*, in which it concluded that competitors are not impaired without access to ILEC OS/DA services because, *inter alia*, they can obtain nondiscriminatory access to all LECs's OS/DA, including OS/DA databases. *UNE Remand Order*, FCC 99-238 at para. 441-42. In light of this conclusion, SBC does not here challenge the right of competing carriers to obtain nondiscriminatory access to DA data or DA databases.

<sup>3</sup> AT&T Opposition at 4; INFONXX Opposition at 3.

and is an obligation specifically limited to incumbent LECs. Moreover, it is an obligation that is specifically limited by the “necessary and impair” standard in section 251(d)(2). As such, the Commission may not require all LECs to provide unbundled access to all of the facilities used to provide DA services. Such a requirement plainly is inconsistent with the careful balance of obligations adopted in section 251.<sup>4</sup>

Having concluded that competing carriers are not impaired if they are denied access to ILEC’s OS/DA services, the Commission should not require LECs to provide unbundled access to ancillary OS/DA systems pursuant to section 251(b)(3). In the *UNE Remand Order*, the Commission found that competition for OS/DA services has existed since “divestiture,” and indeed has “accelerated.”<sup>5</sup> The Commission further found the quality of “the functionality of third-party supplied OS/DA sufficiently equivalent to that of the incumbent’s service . . . that a requesting carrier’s ability to provide the services it seeks to offer is not impaired without access to the incumbent’s OS/DA service.”<sup>6</sup> This competition has developed even though third-party providers have never obtained access to LEC ancillary services. As such, no credible claim can be made that competing carriers require access to ancillary proprietary OS/DA services and software to offer

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<sup>4</sup> Indeed, it would be ironic in the extreme if ILECs are not required to offer unbundled access to OS/DA under the more onerous provisions of section 251(c)(3), while all LECs are required to provide such access to ancillary proprietary OS/DA services and software pursuant to 251(b)(3).

<sup>5</sup> *UNE Remand Order*, FCC 99-238 at para. 447.

<sup>6</sup> *Id.* at p the Commission may only require unbundling pursuant to section 251(c)(3), and only where the necessary and impair standard in section 251(d)(2) is satisfied. And having concluded that competing carriers are not impaired without unbundled access to ILEC OS/DA, the Commission cannot require all LECs to unbundle all of their DA facilities pursuant to section 251(b)(3). Accordingly, the Commission should clarify that, while LECs must provide competing LECs nondiscriminatory access to DA data in an electronic format (including through daily updates), they need not provide unbundled access to all DA facilities, and, in particular, adjunct features.ara. 456.

OS/DA service, or that competing carriers would be denied dialing parity without access to such services and software.

Accordingly, SBC urges the Commission to clarify that LECs are not required to provide access to ancillary OS/DA services and software that are separate from their OS/DA databases and which they use to facilitate their utilization of those databases. Granting this request will not deny competing carriers access to the information and facilities they need (including subscriber list information and directory assistance listings, either in bulk or via direct access to the DA database) to obtain dialing parity or provide competing DA services.

**2. SBC Supports the Petitions of Bell Atlantic and US West and the Comments Supporting Them.**

Several local exchange carriers ("LECs") and publishers filed Petitions for Clarification or Reconsideration of the *SLI Order* that were itemized in the Commission Public Notice released on December 3, 1999. Although SBC did not comment on these petitions, it does support the Petitions filed by Bell Atlantic and US West. SBC also agrees with the Comments filed by BellSouth, GTE, Yellow Pages Publishers Association and others in support of those Petitions. In particular, SBC agrees with the following positions articulated in the petitions and comments:

1. It currently infeasible, unnecessary and unduly burdensome to require LECs to separately notify publishers of changes in a subscriber's listing from listed to non-listed status. SBC's current subscriber listing systems, procedures and practices do not enable SBC to separately provide changes to list status, and it would be very costly and administratively burdensome to create that capability. SBC already provides updates to list status, along with new, changed and deleted listings, in its daily updates. This process is consistent with end users' desires to be listed -- or not listed -- accurately.

2. LECs should be able to charge for all listings they in fact provide using their existing systems, even where the publishers have requested fewer listings, since the LEC incurs costs associated with each listing it provides.
3. In order to protect consumers, the Commission should provide a more effective mechanism for preventing and remedying unauthorized use of customer subscriber list information by publishers.
4. Contracts with publishers should only be disclosed subject to an appropriate confidentiality agreement.

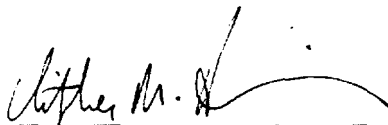
SBC will not repeat the arguments made by the other LECs and publishers in support of these positions, but rather adopts and incorporates them herein by reference.

### CONCLUSION

For the above reasons, SBC urges the Commission to clarify that LECs need not provide access to OS/DA ancillary services and software, which is not needed to provide competitive OS/DA services or to achieve dialing parity. The Commission also should grant the Petitions of Bell Atlantic and US West.

Respectfully submitted,  
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Date: January 21, 2000

CERTIFICATE OF SERVICE

I, Anisa A. Latif, do hereby certify that a copy of **SBC Communications, Inc., Reply Comments** has been served on the parties attached via first class mail – postage prepaid on this 21<sup>st</sup> day of January 2000.

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